

Appl. No. 10/533,923
Amdt. Dated August 14, 2006
Reply to Final Action of June 20, 2006

REMARKS

This application has been reviewed in light of the Action mailed on June 20, 2006.

Claims 1, 3 to 7, 9 and 10 are currently pending in the present application.

Reconsideration of the present application under 37 C.F.R. 1.116 is respectfully requested.

Claims 1, 3 to 7, 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,408,187 to Merriam (hereinafter "Merriam") in view of U.S. Patent No. 6,516,200 to Schmidt et al. (hereinafter "Schmidt"). Applicants respectfully submit that the combination of Merriam and Schmidt does not render obvious independent claims 1 and 7 or claims 3 to 6, which depend from claim 1 or claims 9 to 10, which depend from claim 7.

It is an object of the present invention to provide a means for automatically informing a *caller* of what the *owner* of a mobile device *is actually doing* when a call is received. Specifically, it is an object of the present invention to provide a voicemail greeting message that is automatically returned to a caller to alert the caller as to what the owner of the mobile device is doing. The voicemail greeting message may be a sound of traffic noise, making the caller aware that the user is driving at the moment of the call (see page 3, lines 15 to 21). Accordingly, claim 1 is directed to a method of presenting an information item on a mobile device, the method comprising the steps of: retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile

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device with information on the user's context or environment; determining a mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider; determining and presenting the information item dependent on the mode, receiving a first message from a caller sent to said mobile device; determining a second message dependent on the mode, when the first message is received; and sending the second message to the caller as a response to said first message.

Claim 7 is directed to a mobile device for presenting an information item, said mobile device comprising: at least one identification reader for retrieving an identification of at least one of user gear and apparel; means for determining a mode reflecting at least one attribute of identified gear and apparel and means for optionally sending the mode with an identification of said mobile device to a service provider; means for determining and presenting the information item dependent on said mode; means for receiving a first message from a caller; means for determining a second message dependent on said mode, when said first message is received; and means for sending the second message to the caller as a response to said first message.

As conceded by the Action, Merriam fails to contemplate a means for determining a second message dependent on the mode, when the first message is received; and a means for sending the second message to the caller as a response to the first message. Rather, Merriam simply discloses means for enabling a communications device to automatically adapt its behavior to conform to its immediate environment. A means for

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collecting information regarding the caller's environment and for relaying the collected information back to a caller is not described.

The Action cites Schmidt for determining a second message dependent on the mode, when the first message is received; and a means for sending the second message to the caller as a response to the first message. The Applicants respectfully submit that Schmidt also fails to disclose a means for determining a second outgoing message dependent on collected information defining a mode, when a first or incoming message is received; and a means for sending the second message to the caller as a response to the first message. Rather, Schmidt is directed to a method by which a communications terminal can determine, prior to answering a call, whether an incoming call is a group call. Accordingly, Schmidt simply discloses means for indicating to a communications terminal, such as a wireless mobile device, when an incoming call is a group call so that the mobile device may respond appropriately. According to the method of Schmidt, a Group Call Server supplies the owner's mobile device with an indication of an incoming call type for group calls so as to distinguish such calls from other types of incoming calls. Schmidt does not disclose a means for retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information on the user's context or environment, determining a mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an identification of said mobile device to a service provider, let alone a means for sending a second message that communicates the collected environmental information to the caller in response to the first incoming message, as is clearly claimed in claims 1 and 7 of the subject application.

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Moreover, the Applicants respectfully disagree with the Action's characterization of Schmidt. The Action improperly equates Schmidt's "flagged characters" with the "mode" of claims 1 and 7. The "flagged characters" disclosed in Schmidt are indicators which a Group Call Server assigns to selectively augment the calling party number field of the outgoing paging message (the incoming message received by the user's mobile device). The indicator flags indicate one or more characteristics of the incoming group call, such as call type, call subtype, or priority level. In contrast, the "mode" of claims 1 and 7 is defined as retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information on the user's context or environment wherein the mode reflects at least one attribute of identified gear and apparel. The mode is sent with an identification of the mobile device to a service provider.

The Action further improperly equates Schmidt's "appropriate response" with the "a second message" of claims 1 and 7. According to Schmidt, a mobile device receives a group call paging message and selects an "appropriate response" to the paging message based on the flag characters. As defined by Schmidt, the "appropriate response" is simply a means for controlling the man-machine interface of the mobile terminal and for determining whether or not to automatically answer the call. The "appropriate response" of Schmidt is not equivalent to the "second message" as defined by claims 1 and 7 of the subject application. The "second message" of claims 1 and 7 is determined dependent on the mode, when the first message is received. The "second message" is sent to the caller

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as a response to the first message and relays information regarding the user's context or environment. Schmidt does not disclose a means for collecting or relaying information regarding the user's context or environment. Thus, Merriam and Schmidt, even when combined as suggested by the Action, still fail to anticipate all elements of claims 1 and 7. Accordingly, for at least these reasons, independent claims 1 and 7 are clearly patentable over the cited combination.

Claims 3 to 6 depend directly or indirectly from claim 1 and provide further features thereto. Claims 9 and 10 depend from claim 7 and provide further distinguishing features thereto. Accordingly, claims 3 to 6 and 9 and 10 are clearly distinguishable over the combination of Merriam and Schmidt for at least the reasons discussed with respect to claims 1 and 7. By way of example, the method disclosed in claim 3 discloses a step of determining a second message comprising the steps of: sending the mode with an identification of said mobile device to a service provider; and determining the second message based on the received mode and the identification of said mobile device on the service provider. Claim 4 is directed to a step of: modifying at least one attribute of gear and apparel. Claim 5 is directed to the method of claim 1, wherein the mobile device is a personal digital assistant, palm top, cell phone or a mobile phone. Claim 6 is directed to a computer program product comprising program code means stored on a computer readable medium for performing the method of any one of claims 1 through 5 when the computer program is run on a computer. Claim 9 is directed to a mobile device having a means for sending the mode with an identification of said mobile device to a service provider, where said service provider determines the second message. Claim 10 is

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directed to a mobile device having a means for modifying at least one attribute of gear and apparel.

Accordingly, the rejections under 35 U.S.C. § 103(a) of claim 1 and claims 3 to 6, which depend therefrom and claim 7 and claims 9 and 10, which depend therefrom should be withdrawn and claims 1, 3 to 7 and 9 to 10 should be allowed.

Conclusion

In view of the foregoing, Applicants respectfully submit that the specification, the drawings and all claims presented in this application are currently in condition for allowance. Accordingly, Applicants respectfully request favorable consideration and that this application be passed to allowance.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

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Applicants' representative believes that this response is being filed in a timely manner. In the event that any extension and/or fee is required for the entry of this amendment the Commissioner is hereby authorized to charge said fee to Deposit Account No. 14-1270. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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